

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SPB 7012

INTRODUCER: For consideration by the Transportation Committee

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: December 22, 2008 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This Proposed Committee Bill (PCB) makes changes to numerous programs administered by or affecting the Department of Highway Safety and Motor Vehicles (DHSMV or department). In addition, the PCB provides necessary changes to current law to provide for adjustments to transportation and economic development appropriations. The PCB provides a revenue increase to the General Revenue Fund, provides for the redirection of trust fund revenues and authorizes the use of certain revenues. Examples of provisions contained in the PCB include:

- Authorizes the department to implement the \$1 credit provision associated with the Collier Settlement Agreement.
- Eliminates the DUI Programs Coordination Trust Fund.
- Directs motorists to slow down on a four-lane highway if unable to move over as required by the Move Over Act.
- Clarifies a person under 16 may not operate a motorcycle or moped.
- Increases the civil penalty late fee required in s. 318.18, F.S., and directs those revenues to the General Revenue Fund.
- Redirects the \$2.00 processing fee collected on the purchase of personalized prestige or specialty license plates to the Highway Safety Operating Trust Fund.
- Redirects the 50 cents reflectorization fee collected on each motor vehicle registration or renewal registration to the Highway Safety Operating Trust Fund.
- Provides the \$2.50 motorcycle safety education fee assessed when registering a motorcycle may be used for the Florida Motorcycle Safety Education Program established in s. 322.0255, F.S., or the general operations of the department.
- Eliminates the Motorcycle Safety Education Course Reimbursements.

- Grants authority to the department to issue electronic titles in lieu of printing a paper title and allows the department to collect and use e-mail addresses of motor vehicle and vessel owners and registrants as a notification method in lieu of the United States Postal Service.
- Reduces funding for Motorcycle Safety Education Campaigns and provides the \$2.50 motorcycle safety education fee assessed when registering a motorcycle may be used for the Florida Motorcycle Safety Education Program established in s. 322.0255, F.S., or the general operations of the department.
- Authorizes the department to assess a licensee, who proposes to establish an additional motor vehicle dealership or permit the relocations of an existing dealer to a location within a community or territory where the same line-make vehicle is presently represented by a franchised motor vehicle dealer/dealers, a \$75 fee and a service charge of \$2.50 for each publication to cover the cost of publication in the Florida Administrative Weekly.
- Phases out the issuance of licenses that are “valid in Florida only” as required by the REAL ID Act.
- Specifies the manner in which proof of insurance is submitted by motor vehicle and mobile home dealers and establishes more detailed criteria for maintenance of coverage for the entire licensing period.
- Allows the department to waive the hearing process for non-egregious suspensions and revocations upon request by the driver while still requiring the driver to complete all other necessary reinstatement provisions.

This bill substantially amends sections 17.61, 215.20, 316.126, 316.2085, 318.18, 319.14, 319.32, 319.40, 320.023, 320.05, 320.06, 320.0607, 320.08, 320.08048, 320.0805, 320.08056, 320.0863, 320.203, 320.27, 320.642, 320.77, 320.95, 322.025, 322.0255, 322.03, 322.051, 322.08, 322.095, 322.201, 322.22, 322.2615, 322.27, 322.271, 322.28, 322.293, 322.64, 328.30, 328.72, and 328.80 of the Florida Statutes and creates an undesignated section of law.

## II. Present Situation:

### *DUI Programs Coordination Trust Fund*

Section 322.293, F.S., specifies a \$12 fee is assessed against each person who enrolls in a DUI Program. This fee is deposited into the DUI Programs Coordination Trust Fund to be used solely to fund the supervision of such programs.

### *Move Over Act*

Section 316.126, F.S., also known as the Florida Move-Over Act, requires that, where there are two or more lanes traveling in the same direction, motorists must merge into the lane farthest from an emergency vehicle parked at the roadside when the emergency vehicle is making use of its visual signals or a wrecker displaying amber rotating or flashing lights performing a recovery or loading on the roadside. For the purposes of the act, emergency vehicles include vehicles of the fire department, police vehicles, ambulances, and certain other vehicles of municipalities, the Florida Department of Environmental Protection, the Florida Department of Health, and the Florida Department of Transportation. In instances where the motorist is traveling on a two-lane road, he or she must slow to a speed that is 20 mph less than the posted speed limit, unless the posted limit is 20 mph or less. In that case, the motorist is required to slow to a speed of 5 mph.

Currently, there is not a stated requirement for motorists on a four-lane highway to slow down if he or she is unable to move over.

Violation of the Move-Over Act is a non-criminal traffic infraction punishable as a moving violation. Violators are subject to a \$60 penalty, court costs of up to \$30, and imposition of 3 points against the violator's driver's license.

These requirements are in addition to those requiring a motorist yield for a moving emergency vehicle. These requirements do not relieve a driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

### ***Motorcycles and Mopeds***

Section 316.2085(6), F.S., provides a person under 16 years of age may not operate a motorcycle that has a motor with more than 150 cubic centimeters displacement or rent a motorcycle or moped.

### ***Driver's Licenses and Identification (ID) Card Reinstatement Fees***

Section 318.18(8)(a), F.S., requires any person who fails to timely pay a traffic fine included in 318.15(1)(a), F.S., to pay an additional \$12 civil penalty, \$2.50 of which is remitted to the General Revenue Fund and \$9.50 of which is remitted to the Highway Safety Operating Trust Fund.

### ***Custom and Street Rod Vehicles***

Section 320.0863(1)(b), F.S., defines "custom vehicle" to mean a motor vehicle that:

- Is 25 years old or older and of a model year after 1948 or was manufactured to resemble a vehicle that is 25 years old or older and of a model year after 1948; and
- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(1)(c), F.S., defines "street rod" to mean a motor vehicle that:

- Is of a model year of 1948 or older or was manufactured after 1948 to resemble a vehicle of a model year of 1948 or older; and
- Has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

Section 320.0863(2), F.S., provides the model year and year of manufacture which the body of a custom vehicle or street rod resembles is the model year and year of manufacture listed on the certificate of title, regardless of when the vehicle was actually manufactured.

Currently, ch. 320, F.S., provides for unique license plates for custom and street rod vehicles; however, ch. 319, F.S., does not provide for a unique titling process (i.e. titling requirement, branding requirements or definitions for custom and street rod vehicles). According to the department, this has caused a lack of direction for Tax Collector agencies and regional offices in terms of titling these vehicles.

### ***Vehicle Inspection Fees of Rebuilt Vehicles Applying for a Certificate of Title***

Section 319.32, F.S., authorizes the department to charge a \$40 inspection fee for an application for a certificate of title for a rebuilt vehicle to conduct a physical examination of a rebuilt vehicle to assure its identity. Currently, if the vehicle fails the first inspection, there is no charge for subsequent inspections.

***Motor Vehicle Registration Voluntary Check-off***

Section 320.023, F.S., authorizes the department to distribute voluntary contributions received from motor vehicle registration applications to an organization as appropriated by the Legislature. This section does not specify the trust fund in which these funds are to be deposited or distributed.

***Collier Settlement***

*Collier, et al. v. Dickinson, et al.* Case No. 04-21351-DV-JEM (S.D. Fla.) On June 7, 2004, a potential class action lawsuit was filed against present and former employees of DHSMV as defendants and alleged damages to the potential class due to the continued disclosure of personal information maintained by DHSMV and obtained from motor vehicle and driver license records in violation of 18 U.S.C. ss. 2721-2725 (DPPA). DPPA was effective June 1, 2000. Florida law allowed the disclosure of this information from June 1, 2000 until September 30, 2004 when s. 119.0712(2), F.S., was amended to mirror DPPA. The above legal action led to the change in Florida law. The initial complaint demanded approximately \$39 billion in damages or \$2,500 per release of information.

The above mentioned law suit resulted in three separate mediation sessions. The mediated agreement reached on June 5, 2008, provides all motor vehicle registrants who are class members (all natural persons who had a valid driver license, identification card or motor vehicle registration) would receive a \$1 credit on the renewal of their motor vehicle registration during the period of July 1, 2009, through June 30, 2010. The total amount of the credit would be approximately \$10.4 million. There will also be equitable relief which includes changing the procedures of DHSMV regarding disclosure of personal information. Additionally, DHSMV will maintain a website informing the public of their rights under DPPA. Also, the Division of Risk Management would pay each of the four named Plaintiffs \$3,000, Plaintiffs' attorney fees in the amount of \$2.85 million, and costs of publication totaling approximately \$20,000.00. This agreement was accepted by the Cabinet on August 12, 2008; however, the \$1 credit for the settlement class is contingent upon approval and appropriation by the Legislature.

***Motor Vehicle Certificates of Title and Licenses; Electronic Transactions***

Chapter 319, F.S., governs vehicle title certificates issued in Florida as well as fees, liens, and related issues. Section 319.40, F.S., authorizes the department to accept title and registration applications provided for in ch. 319, F.S., by "electronic or telephonic means;" however, it does not specifically allow the collection an use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 320.95, F.S., authorizes the department to accept title and registration applications provided for in ch. 320, F.S., by "electronic or telephonic means;" however, it does not specifically allow the collection an use of email addresses from vehicle owners and registrants.

***Record Access***

According to DHSMV, the department currently provides vehicle information via the internet; however, it only gives customers information on vehicles titled in Florida. Section 320.05, F.S., does not authorize the department to provide public access to out-of-state motor vehicle records using the National Motor Vehicle Title Information System.

***Motor Vehicle Registration and Renewal; Retroreflectivity Fee***

Section 320.06 (3)(b), F.S., requires the department to collect an additional 50 cents on each motor vehicle registration or motor vehicle renewal registration, in order to ensure “all license plates and validation stickers be fully treated with retroreflective material.” This fee is currently deposited into the State Transportation Trust Fund.

***Motor Vehicle and Vessel Biennial Registration; Statutory Reference***

During the 2007 Session, the Legislature passed HB 275<sup>1</sup>, which provided for an optional extended (biennial) motor vehicle registration period for motorcycles, passenger cars, trucks, mobile homes, and vessels. In addition, the bill restructured the five-year license plate replacement cycle to six years, and increased the license plate replacement fee from \$10 to \$12; however, some conforming sections were inadvertently omitted.

Also, HB 275 created s. 320.203, F.S., to provide for the disposition of the biennial registration revenues. After the distributions pursuant to s. 320.20(1),(2), (3), and (4) are fulfilled, an amount equal to 50 percent of the biennial registration revenues shall be retained in the Motor Vehicle License Clearing Trust Fund until July 1. After July 1 of the subsequent fiscal year, an amount equal to 50 percent of revenues collected from biennial registrations shall be retained. This revenue distribution smoothing will ensure that revenue collected for 50 percent of the optional 2-year registration is distributed in the same manner and in the same amounts as revenues currently collected for annual vehicle registrations.

Section 328.72, F.S., does not provide a definition relating to vessel registrations for an “extended registration period” as is provided for motor vehicles in s. 320.01(19)(b), F.S. additionally, this section does not specify the proration of vessel registration fees.

***Motorcycle License Taxes; Florida Motorcycle Safety Education Program***

Currently, s. 320.08(1)(c), F.S., provides that for each motorcycle registered in Florida, a \$2.50 motorcycle safety education fee is collected and deposited into the Highway Safety Operating Trust Fund. These funds are used *exclusively* to fund motorcycle driver improvement programs implemented pursuant to s. 322.025, F.S., or the Florida Motorcycle Safety Education Program. This program was established in 1989 to provide motorcycle safety courses in Florida.<sup>2</sup> Organizations participating in the Florida Rider Training Program charge students a registration fee to attend a course, not to exceed \$20 per student.<sup>3</sup>

Currently, s. 322.025(1), F.S., provides motorcycle driver improvement programs shall be funded exclusively from the \$2.50 motorcycle safety education fee authorized in s. 320.08(1)(c), F.S., and deposited in the Highway Safety Trust Fund.

---

<sup>1</sup> Chapter 2007-242, L.O.F.

<sup>2</sup> Section 322.0255(1), F.S. See also s. 7, ch. 88-405, Laws of Florida.

<sup>3</sup> Section 322.0255(6), F.S.

Currently, s. 322.0255(5), F.S., requires the department to reimburse sponsors that provide an approved motorcycle safety education course for each student who begins the on-cycle portion of the course, subject to the availability of funds. The reimbursements are funded from the \$2.50 motorcycle safety education fee authorized in s. 320.08(1)(c), F.S. Historically, the reimbursement fee intended to help establish the privatization of the Florida Rider Training Program. Course completion was not required to obtain a motorcycle endorsement, unless the rider was under 21 years old. Some sponsors adjusted their course prices based on the reimbursement, which meant a lower cost to the student. Florida law<sup>4</sup> changed on July 1, 2008, to require course completion in order to obtain a motorcycle endorsement, regardless of age. In addition, there are now 63 approved training providers and in FY 2007-08, approximately 34,000 students completed the course. According to the department, because of the increased demand and increased course availability, this subsidy is no longer necessary and was not provided in FY 2007-2008.

***Specialty and Prestige License Plates; Processing Fees***

Section 320.0805, F.S., governs the issuance of personalized prestige license plates. To receive a personalized prestige license plate, the motor vehicle owner must pay the appropriate license tax, an annual use fee of \$10, and a processing fee of \$2. This \$2 fee is currently deposited into the State Transportation Trust Fund.

Section 320.08056, F.S., governs the issuance of specialty license plates. To receive a specialty plate, the motor vehicle owner must pay the appropriate license tax, license plate fee, license plate annual use fee,<sup>5</sup> and a processing fee of \$2. This \$2 fee is currently deposited into the State Transportation Trust Fund.

***Motor Vehicle Dealer License***

Section 320.27(3), F.S., provides no person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a motor vehicle dealer license. A motor vehicle dealer application must contain such other relevant information as may be required by the department, including evidence the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection. Franchise dealers must obtain a garage liability insurance policy, and all other motor vehicle dealers must submit either a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.

Sections 320.27(9)(a) and (b), F.S., authorizes DHSMV to deny, suspend, or revoke a motor vehicle dealer license upon proof that a licensee has committed or committed with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of certain activities.

---

<sup>4</sup> See ch. 2008-176, L.O.F.

<sup>5</sup> The available plates and associated fees are listed in ss. 320.08056(4)(a) - (III), F.S.

Section 320.27(10), F.S., requires an applicant-dealer of new or used motor vehicles to deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the applicant-dealer as principal, in the sum of \$25,000. Section 320.27(10)(g), F.S., requires a surety company which cancels the bond of any licensee or any bank which cancels an irrevocable letter of credit to notify the department in writing of such cancellation, giving reason for the cancellation.

### ***Dealer Publications***

Section 320.642, F.S., requires the department to publish a notice in the Florida Administrative Weekly when a franchised motor vehicle dealer who is seeking to establish an additional location or to relocate an existing dealership to a location within a community or territory where the same line-make is presently represented. This section currently does not specify a fee to be paid to cover the cost of publishing the notice. The department is currently absorbing this cost.

### ***Mobile Home Dealer License***

Section 320.77, F.S., does not provide a penalty for those mobile home dealers who do not maintain a surety bond continuously during the license period nor does it set a time limit on when the insurer has to notify the department of a surety bond cancellation. Also, this section does not require garage liability insurance for mobile home dealers who also deal in recreational vehicles.

### ***Background: The REAL ID Act***

On May 11, 2005, the Real ID Act of 2005 (Real ID) was enacted and created national standards for issuing state driver's licenses and identification cards, which must be met for state-issued credentials to be accepted as valid identification by the federal government.<sup>6</sup> Under the act, only persons with driver's licenses and ID cards complying with Real ID standards will be authorized to access federal facilities, board federally regulated commercial aircraft, and to enter nuclear power plants. The United States Department of Homeland Security may consider expanding these official purposes through future rulemakings to maximize the security benefits of Real ID. Persons without a compliant state-issued license or ID card will be required to obtain and show other accepted documents such as a United States passport.

States (should they decide to comply with Real ID) must begin issuing compliant driver's licenses and ID cards by January 1, 2010, and all licenses and cards must be issued on or before December 2017. During the 2008 Session, the Legislature passed SB 1992, which made many necessary changes to comply with the REAL ID Act; however, Florida's current driver's licenses and ID cards meet many, but not all of the anticipated Real ID requirements.

### ***"Valid in Florida Only" Licenses***

Section 322.03, F.S., provides a person who does not drive a commercial motor vehicle is not required to surrender a license issued by another jurisdiction, upon a showing to the department that such license is necessary because of employment or part-time residence. Any person who retains a driver's license because of employment or part-time residence shall, upon qualifying for a license in this state, be issued a driver's license which shall be valid within this state only. A person may not have more than one valid Florida driver's license at any time.

---

<sup>6</sup> P.L. 109-13, Title II "Improved Security for Drivers' Licenses and Personal Identification Cards."

Section 322.08, F.S., currently does not prohibit a person from being issued a Florida driver's license if the person holds a valid driver's license or ID card issued by another state.

#### ***Instructor Certification***

Section 322.095(1), F.S., provides the department shall certify all instructors teaching the Traffic Law and Substance Abuse Education (TLSAE) courses. In 1995, the Legislature deregulated the driver improvement industry.<sup>7</sup> As a result, the department does not certify or license driver improvement instructors, with the exception of instructors who teach TLSAE courses.

According to the department, there is a conflict in statute. Since the department does not have the authority to regulate driver improvement schools or instructors under s. 318.1451, F.S., the need for certification of instructors by DHSMV should be consistent.

#### ***Machine Embossing***

Section 322.201, F.S., requires all copies and transcripts of crash reports, all abstracts of court records of convictions received by the department and all individuals' complete driving records certified by the department or the clerk of a court to be certified by machine imprint.

#### ***Identification Cards Obtained by Fraud***

Section 322.22, F.S., authorizes the DHSMV to cancel the driver's license of a person, upon determining the licensee was not entitled, failed to give the required or correct information in his or her application, or committed any fraud in making such application, or the licensee has two or more licenses on file with department, each in a different name but bearing the photograph of the licensee.

Section 322.27, F.S., authorizes the DHSMV to suspend or revoke the license of person upon showing the licensee has permitted an unlawful or fraudulent use of such license or has knowingly been a party to the obtaining of a license by fraud or misrepresentation or to display, or represent as one's own, any driver's license not issued to him or her.

These statutes are silent with respect to identification cards, although the process to obtain both a driver's license and identification card is identical.

#### ***Administrative Suspensions and Right to Review***

Section 322.2615, F.S., authorizes a law enforcement officer or correctional officer, on behalf of the department, to suspend the driver's license of any person who is driving or in actual physical control of a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, or of a person who has refused to submit to a urine test or a test of his or her breath-alcohol or blood-alcohol level. The administrative suspension statute sets forth procedures for reviewing the driver's license suspension and the process that must be followed by the department for sustaining, amending, or invalidating the suspension, and the right to appeal such decisions.

---

<sup>7</sup> See ch. 95-326, L.O.F.

In 2006, the Legislature removed the provisions which required the hearing officers to consider the lawfulness of the arrest.<sup>8</sup> In subsequent court decisions, primarily *DHSMV v. Pelham*<sup>9</sup> courts are again requiring the hearing officers to consider the arrest. The courts have stated the Legislature needs to be more specific if it truly intended to remove this language. According to the department, by defining the lawful test as one approved by the Florida Department of Law Enforcement (FDLE), the Legislature can "truly" declare its intention.

### ***Lawful Breath, Blood, or Urine Test***

Section 322.64, F.S., provides law enforcement officers or correctional officers shall, on behalf of the department, disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle.

### ***Non-egregious Hearings***

Section 322.27, F.S., authorizes the department to conduct administrative hearings for consideration of a hardship license for persons whose driving privilege has been suspended, cancelled or revoked for non-egregious violations. The hardship hearings are conducted for reinstatement of a driver's license on a restricted basis based on the person's qualifications, fitness, need to drive, and compliance with other laws. According to DHSMV, during FY 07-08, hearing officers conducted more than 38,000 hardship hearings for all sanctions, including approximately 19,000 related to multiple DUI offenders, habitual traffic offenders, or sanctions related to death or serious bodily injury. The remaining 19,000 hearings were for sanctions involving excess points, first offender DUIs and other first offenses (sanctions) not involving death or serious bodily injury. The DHSMV states a number of these offenders met specific, non-subjective hardship reinstatement requirements and restricted licenses were reinstated.

### ***Multiple DUI Convictions***

Section 322.28, F.S., requires the revocation of a driver's license:

- for not less than 180 days and no more than 1 year for a first DUI conviction;<sup>10</sup>
- for not less than 5 years for a second conviction for an offense that occurs within 5 years after the date of a prior conviction;<sup>11</sup> and
- for not less than 10 years for a third conviction for an offense that occurs within 10 years of a prior conviction.<sup>12</sup>

A fourth DUI conviction results in permanent revocation of a person's driving privilege.<sup>13</sup>

This section does not address license suspension terms for drivers convicted of a second DUI offense outside of a five year period or a third DUI offense outside of a 10 year period. According to the department, by default, these drivers are treated under the guidelines of a first conviction.

<sup>8</sup> See ch. 2006-290

<sup>9</sup> See *Department of Highway Safety and Motor Vehicles v. Pelham*, 984 So. 2d 519 (Fla. 2008).

<sup>10</sup> s. 322.28(2)(a)1., F.S.

<sup>11</sup> s. 322.28(2)(a)2., F.S.

<sup>12</sup> s. 322.28(2)(a)3., F.S.

<sup>13</sup> s. 322.28(2)(e), F.S.

***Vessel Registration – Electronic Transactions***

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the department to accept any application required under ch. 328, F.S., by “electronic or telephonic means,” relating to vessel titles. Section 328.80, F.S., similarly authorizes the department<sup>14</sup> to accept electronic or telephonic applications.

**III. Effect of Proposed Changes:**

The following discussion represents a section-by-section analysis of the bill:

**Section 1** amends s. 17.61, F.S., to eliminate the DUI Programs Coordination Trust Fund from the list of trust funds invested by the Chief Financial Officer.

**Section 2** amends s. 215.20, F.S., to remove the DUI Programs Trust Fund from the list of funds subject to a 0.3 service charge to the General Revenue Fund.

**Section 3** amends s. 316.126, F.S., to require motorists traveling on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle or wrecker to slow to a speed that is 20 mph less than the posted speed limit if they are unable to move over as required by the Move Over Act.

**Section 4** amends s. 316.2085, F.S., to clarify a person under 16 may not operate a motorcycle or moped.

**Section 5** amends s. 318.18(8)(a), F.S., increasing the civil penalty from \$12 to \$16, of which the additional \$4 shall be remitted to the Department of Revenue for deposit in the General Revenue Fund.

**Section 6** amends s. 319.14, F.S., to include the terms and definitions of “custom vehicle” and street rod vehicle” that were moved from s. 320.0863, F.S., to conform the titling process of unique license plates for custom and street rod vehicles.

**Section 7** amends s. 319.32, F.S., to allow DHSMV to charge \$20 for a subsequent rebuilt inspection fee if the owner fails to pass the initial inspection. The section is amended to also specify the physical examination for the vehicle must include, but need not be limited to, verification of the vehicle identification number and verification of the bill of sale or title for major components.

According to the department, subsequent inspections equate to approximately 20 percent of annual inspections. During FY 2007-2008, the Division of Motor Vehicles (DMV) conducted 25,066 rebuilt inspections, of which 5,013 vehicles were subsequently re-inspected. The department estimates charging the \$20 re-inspection fee would generate approximately \$100,000 on an annual basis for the General Revenue Fund.

---

<sup>14</sup> Section 328.80, F.S. actually directs the “commission” to use electronic means; however, a reviser’s note from 1999 suggests that the “department” may be the correct intent.

**Section 8** amends s. 319.40, F.S., to authorize the department to issue electronic certificates of title and to collect e-mail addresses of vehicle owners and registrants for notification purposes related to vehicle titles in lieu of the United States Postal Service.

**Section 9** amends s. 320.023, F.S., to name the Motor Vehicle License Clearing Trust Fund as the depository and distributor of any voluntary contribution authorized by law. According to the department, this change will not have any fiscal impact on the department and will align the current process with statutory authority.

**Section 10** creates an undesignated section of law to statutorily provide the department authority to implement the \$1 credit provision associated with the *Collier* Settlement Agreement. Specifically, the new section provides any person who held a driver license, identification card or motor vehicle registration valid between June 1, 2000, and September 30, 2004, is eligible for a single \$1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010. The revenue generated by s. 320.08046, F.S., and deposited into the General Revenue Fund shall fund the \$1 credit.

The department estimates approximately 10.4 million driver license/identification card holders and/or motor vehicle registrants would be eligible to receive the credit.

**Section 11** amends s. 320.05, F.S., to authorize DHSMV to provide public access to the National Motor Vehicle Title Information System via an authorized connection with the American Association of Motor Vehicle Administrators in order to obtain vehicle history and branding data on out-of-state vehicles. In addition, the department is authorized to establish a fee for providing the public-access service; however, the fee may not exceed the actual cost of providing the service.

**Section 12** amends s. 320.06(3)(b), F.S., to name the Highway Safety Operating Trust Fund as the depository for the additional 50 cents collected for motor vehicle registrations and renewals to cover the cost of retroreflective material on license plates and decals. According to the department, in FY 2007-2008, the department collected \$9,213,201. These funds would now be deposited into the Highway Safety Operating Trust Fund.

**Section 13** amends s. 320.0607, F.S. Chapter 2007-242, L.O.F., provided for an optional extended (biennial) motor vehicle registration period for motorcycles, passenger cars, trucks, mobile homes, and vessels. The bill restructured the five-year license plate replacement cycle to six years, and increased the license plate replacement fee from \$10 to \$12. Section 320.0607, F.S., is amended to correct additional references to the increased license plate fees to conform to the provisions of ch. 2007-242, L.O.F.

**Section 14** amends s. 320.08(1)(c), F.S., allowing the department to not only use the \$2.50 motorcycle safety education fee for the motorcycle driver improvement program, but also for general operations of the department. The funds will remain in the Highway Safety Operating Trust Fund. According to the department, this fee generated \$1,669,207 in revenue for FY 2007-2008.

**Section 15** amends s. 320.08048, F.S. Chapter 2007-242, L.O.F., provided for an optional extended (biennial) motor vehicle registration period for motorcycles, passenger cars, trucks, mobile homes, and vessels. The bill restructured the five-year license plate replacement cycle to six years, and increased the license plate replacement fee from \$10 to \$12. Section 320.08048, F.S., is amended to correct additional references to the increased license plate fees relating to sample regular issuance or specialty license plates to conform to the provisions of ch. 2007-242, L.O.F.

**Section 16** amends s. 320.0805(2), F.S., to name the Highway Safety Operating Trust Fund as the trust fund to deposit the \$2 processing fee for personalized license plates. Annually, the department processes approximately 110,000 personalized license plates.

**Section 17** amends s. 320.08056(3)(b), F.S., to name the Highway Safety Operating Trust Fund as the fund to deposit the \$2 processing fee for personalized prestige license plates. Annually, the department issues approximately 450,000 specialty license plates.

**Section 18** amends s. 320.0863, F.S., to remove the definitions of the terms “custom vehicle” and “street rod” relating to these unique license plates. These definitions are moved to s. 319.14, F.S., to conform the titling process of unique license plates for custom and street rod vehicles.

**Section 19** amends s. 320.203, F.S., to provide and correct an omitted statutory reference relating to the disposition of the biennial registration revenues.

**Section 20** amends s. 320.27(3), F.S., to delete the provision requiring evidence of a garage liability insurance policy or a general liability insurance policy. This provision is expanded and moved to s. 322.27(11), F.S.

Section 320.27 (9)(a), F.S., is amended to allow the DHSMV to deny, suspend, or revoke any license issued under of ss. 320.27, 320.77, or 320.771, F.S., for any violation of failure to honor a bank draft or check given to the department for payment of any fees within 10 days after notification the bank draft or check has been dishonored. If the transaction is disputed, the maker of the bank draft or check must post a bond in accordance with s. 559.917, F.S., and revocation or suspension proceeding may not be commenced until the dispute is resolved.

Section 320.27(9)(b), F.S., is amended to allow the DHSMV to deny, suspend, or revoke any license issued under of ss. 320.27, 320.77, or 320.771, F.S., upon proof a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee, for a violation of failure to obtain an off-premises permit.

Section 320.27(10)(g), F.S., is amended to specify the cancellation of a surety bond may be effective no earlier than 30 days after notice is received by the department from the insurer.

Section 320.27(10)(h), F.S., is created to authorize the department to revoke, suspend, or deny a motor vehicle dealer’s license if the dealer conducts business during the license period without having or maintaining the required surety bond.

Section 320.27(11), F.S., is created to restructure the manner in which proof of insurance is submitted by dealers without changing the limits of liability, but establishing more detailed criteria for maintenance of coverage for the entire licensing period and authorizes the department to suspend, revoke or deny a motor vehicle dealer's license if the dealer conducts business during the license period without having or maintaining the required liability insurance. These provisions requiring evidence of a garage liability insurance policy or a general liability insurance policy mirror the provisions relating to surety bonds and irrevocable letters of credit.

**Section 21** amends s. 320.642, F.S., to authorize DHSMV to assess a licensee, who proposes to establish an additional motor vehicle dealership or permit the relocations of an existing dealer to a location within a community or territory where the same line-make vehicle is presently represented by a franchised motor vehicle dealer/dealers, a \$75 fee and a service charge of \$2.50 for each publication to cover the cost of publication in the Florida Administrative Weekly. Currently the department is responsible for publishing the notices.

According to the department, the \$75 fee plus service charge will offset the department's cost of approximately \$132,530.

**Section 22** amends s. 320.77(16)(f), F.S., is amended to specify the cancellation of a surety bond may be effective no earlier than 30 days after notice is received by the department from the insurer.

Section 320.77(16)(g), F.S., is created to authorize the department to revoke, suspend, or deny a mobile home dealer's license if the dealer conducts business during the license period without having or maintaining the required surety bond.

Section 320.77(17), F.S., is created to provide a person who buys, sells, or deals in both mobile homes and recreational vehicles must provide the same garage liability insurance required of dealers who buy, sell, or deal only in recreational vehicles. In addition, this section restructures the manner in which proof of insurance is submitted by mobile home dealers and establishes more detailed criteria for maintenance of coverage for the entire licensing period. The department is authorized to suspend, revoke or deny a mobile home dealer's license if the dealer conducts business during the license period without having or maintaining the required liability insurance.

**Section 23** amends s. 320.95, F.S., to expressly permit the department to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle licenses in lieu of the United States Postal Service.

**Section 24** amends s. 322.025, F.S., to revise the use of funding for the driver improvement program. Specifically, this section is amended to allow the \$2.50 education fee to fund a motorcycle driver improvement program *or* for the general operations of the department.

**Section 25** amends s. 322.0255, F.S., to eliminate provisions regarding certain reimbursements from the department to motorcycle safety education providers. According to the department, this subsidy is no longer necessary and was not provided in FY 2007-2008, resulting in a savings of between \$500,000 and \$750,000 annually.

**Section 26** amends s. 322.03(1), F.S., to phase out the issuance of licenses that are "valid in Florida only" as required by the REAL ID Act. Specifically, this section allows a part-time resident issued a "valid in Florida only" license to continue to hold such license until the next regularly scheduled renewal. Licenses identified as "valid in Florida only" may not be issued or renewed effective July 1, 2009.

**Section 27** amends s. 322.051, F.S., to delete a reference to ID card fees. References to respective ID card fees were moved from s. 322.051, F.S., to 322.21, F.S., during the 2008 session; however, one partial sentence was not deleted and should have been.

**Section 28** amends s. 322.08, F.S., to specify the DHSMV shall not issue a driver license or ID card to anyone holding a valid driver license or ID card issued by another state. This would eliminate the issuance of licenses that are "valid in Florida only". The REAL ID Act prohibits customers from holding two REAL ID compliant documents simultaneously; and therefore, this necessary change puts Florida statutes in compliance with REAL ID.

**Section 29** amends s. 322.095, F.S., to delete obsolete language requiring the department to certify all instructors teaching the TLSAE courses.

**Section 30** amends s. 322.201, F.S., to delete the requirement that records of crash reports or court records of convictions and the complete driving records of individuals must duly certified by machine imprint for authentication to be received as evidence. An embossed stamp is no longer the industry standard for certifications.

According to the department, it certifies approximately 37,500 documents annually that are machine imprinted with an embossed seal for state attorneys, private attorneys, public defenders, investigators, and others. This change would allow the department to realize a cost savings by not having to maintain or replace its old electronic/automatic embossers. Additionally, the standard in the legal community today for certified records today is an original stamp. Most other certified records submitted to the court do not have an embossed seal.

**Section 31** amends s. 322.22, F.S., to authorize the department to cancel, in addition to any driver's license, an identification card obtained by fraud. Specifically, the DHSMV is authorized to cancel a fraudulent identification card of an identification card holder who failed to give the required or correct information in his or her application or committed any fraud in making such application, or the identification card holder has two or more identification cards on file with department, each in a different name but bearing the photograph of the identification card holder.

**Section 32** amends s. 322.2615(2), F.S., to provide notwithstanding the provisions of s. 316.1932, F.S., a lawful breath, blood or urine test shall mean any test or test approved by the Florida Department of Law Enforcement.

**Section 33** amends s. 322.27, F.S., to authorize the department to suspend or revoke, in addition to any driver's license, an identification card obtained by fraud.

**Section 34** amends s. 322.271(2), F.S., allows the department to waive the hearing process for non-egregious suspensions and revocations upon request by the driver while still requiring the driver to complete all other necessary reinstatement provisions. However, the department may not waive the hearing for suspensions or revocations involving death or serious bodily injury, multiple DUI convictions, or a second or subsequent suspension or revocation pursuant to the same provisions of ch. 322, F.S. In addition, the department is not precluded from requiring a hearing for any suspension or revocation it determines is warranted based on the severity of the offense.

According to the department, in its FY 2008-2009 budget reduction exercise, the DHSMV proposed to eliminate 10 FTEs if it could eliminate non-egregious hearings. Conference Report on HB 5001, General Appropriations Act for FY 2008-2009, reflected the reduction of these 10 FTEs and related funding of \$398,921.

**Section 35** amends s. 322.28, F.S., to clarify in the event a person has two DUI offenses pending at the same time with different offense dates (i.e. multiple convictions on the same day not arising from the same incident) and is subsequently convicted for each violation, the court is to impose specified sanctions as if the first conviction preceded the offense date of the second conviction.

**Section 36** amends s. 322.293, F.S., to eliminate the DUI Programs Coordination Trust Fund and to direct those revenues to be deposited into the Highway Safety Operating Trust Fund for use by DUI programs and general operations of the department.

**Section 37** amends s. 322.64, F.S., to mirror Federal Motor Carrier Safety Administration (FMCSA) regulations. Technical corrections are made to the disqualification statute as it relates to commercial licenses and refusal to submit.

**Section 38** amends s. 328.30, F.S., to provide DHSMV may issue an electronic certificate of title in lieu of printing a paper title and to permit DHSMV to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the United States Postal Service.

**Section 39** amends s. 328.72, F.S., to define an “extended registration period” as a period of 24 months during which a vessel registration is valid. In addition, this section is amended to specify vessel registration fees must be prorated on a monthly basis when the registration period is other than 12 months or 24 months and to clarify the registration period for a motor vehicle or mobile home may not exceed 27 months.

**Section 40** amends s. 328.80, F.S., to allow the department to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the United States Postal Service.

**Section 41** provides this act shall take effect October 1, 2009.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Section 5

The PCB increases the additional civil penalty required when any person fails to pay a traffic fine on time from \$12 to 16. The \$4 increase is directed to the General Revenue Fund. The DHSMV estimates the following fiscal impact.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
Civil Penalty Late Fee	\$4.7 m	\$6.2 m	\$6.2 m

Section 7

The PCB requires a \$20 subsequent rebuilt inspection fee from persons applying for a title of a rebuilt vehicle who fail to pass the initial inspection. Based on prior year transaction counts, the DHSMV estimates the following fiscal impact to the General Revenue Fund. In addition, an effective date of October 1, 2009, is assumed for FY 09-10.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
\$20 Subsequent Rebuilt Inspection Fee	\$75,000	\$100,000	\$100,500

Section 10

The PCB redirects revenue authorized in s. 320.08046, F.S., which is currently designated to the General Revenue Fund, to fund the \$1 credit per implementation of the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009 through June 30, 2010. This will result in a non-recurring revenue loss to the General Revenue Fund for the credit amount. The department estimates approximately 10.4 million driver license/ID card holders and/or motor vehicle registrants would be eligible to receive the credit.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
License Tax Surcharge	\$10.4	\$0	\$0

Sections 12, 16 and 17

The PCB redirects existing fees from the State Transportation Trust Fund to the Highway Safety Operating Trust Fund. Based on prior year transaction counts, the DHSMV estimates the following fiscal impact to the trust funds. In addition, an effective date of October 1, 2009, is assumed for FY 09-10.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
50 cents Reflectorization Fee	\$6.9 m	\$9.2 m	\$9.2 m
\$2.00 Fee for Processing Specialty and Prestige Plates	\$3.1 m	\$4.1 m	\$4.1 m
<b>TOTAL</b>	<b>\$10 m</b>	<b>\$13.3 m</b>	<b>\$13.4 m</b>

Section 36

The PCB redirects existing fees from the DUI Programs Coordination Trust Fund to the Highway Safety Operating Trust Fund. Based on prior year transaction counts, the DHSMV estimates the following fiscal impact to the trust funds. In addition, an effective date of October 1, 2009, is assumed for FY 09-10.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
\$12 DUI Assessment Fee	\$602,726	\$803,635	\$807,653

**B. Private Sector Impact:**

Section 5

Any person who fails to pay a traffic fine within the 30 day time frame will be required to pay an additional late fee of \$4 to be deposited into the General Revenue Fund.

Section 7

Persons applying for a title of a rebuilt vehicle who fail to pass the initial inspection will be charged \$20 for each subsequent rebuilt inspection fee.

Section 11

Persons accessing the National Motor Vehicle Title Information System will be assessed a fee which may not exceed the actual cost of providing the service.

Section 21

Motor vehicle dealerships establishing an additional dealership location or relocating an establishing an existing dealership will be assessed publication and service fees (\$75 and \$2.50, respectively) for the costs of publishing administrative notices.

DHSMV estimates that collectively, the 63 motorcycle course providers could lose between \$300,000 - \$450,000 annually in reimbursements.

**C. Government Sector Impact:**

Generally

According to the department, increasing the civil penalty from \$12 to \$16, redirecting the \$0.50 reflectorization and \$2 specialty and personalized license, and redirecting the \$12 DUI program assessment fee will increase Highway Safety receipts by \$18.1 million for FY09-10 assuming an October 1, 2009 implementation. The revenue increase for FY 10-11 is estimated at \$20.4 million and \$20.5 million for FY11-12.

The DHSMV estimates this PCB will reduce receipts deposited into the State Transportation Trust Fund by \$10.0 million for FY09-10, \$13.4 million for FY10-11, and \$13.5 for FY11-12. Annual assessment fees of over \$800,000 which are currently deposited into the DUI Programs Coordination Trust Fund will be deposited into the Highway Safety Operating Trust due to the consolidation of this program per the Conference Report on HB 5001, General Appropriations Act for Fiscal Year 2008-2009.

This bill also provides for non-recurring reduction of \$10,400,000 to the General Revenue Fund to fund the \$1 credit per implementation of the litigation settlement provisions of Collier v. Dickinson for the period July 1, 2009 through June 30, 2010. In addition, revenues associated from fees collected from provided a public access title information system will be offset by the cost of the program. Publication and service fees collected from motor vehicle dealerships establishing an additional dealership location or relocating an establishing an existing dealership will be used to offset costs of publishing administrative notices.

The department estimates the PCB will require 1,320 hours of contracted programming at a cost of \$75/hr to Driver License and Motor Vehicle software systems for a total cost of \$99,000 to implement. This cost will be absorbed within existing resources.

The following is a section by section fiscal impact analysis:

#### Section 7

Assuming an effective date of October 1, 2009 and a population of 5,013 reinspections, the department estimates an increase to the General Revenue Fund of \$75,000 for FY 09-10, \$100,000 for FY 10-11, and \$100,500 for FY 11-12.

#### Section 10

This will result in a non-recurring revenue loss of \$10.4 million to the General Revenue Fund for the credit amount.

#### Section 11

Revenues collected from fees assessed from providing a public access to the National Motor Vehicle Title Information System will be offset by the cost of administering this program.

#### Section 21

Publication and service fees (\$75 and \$2.50, respectively) collected from motor vehicle dealerships establishing an additional dealership location or relocating an establishing an existing dealership will be used to offset costs of publishing administrative notices. The

DHSMV estimates a \$132,530 positive fiscal impact to the Highway Safety Operating Trust Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Issue #1

During the 2009A Special Session, CS/SB 40-A was filed and contains several provisions that are either identical or similar to provisions contained in the PCB. They correspond to the following sections:

- Section 318.18, F.S. (section 5 of the PCB)
- Section 320.06, F.S. (section 12 of the PCB)
- Section 320.08, F.S. (section 14 of the PCB)
- Section 320.0805, F.S. (section 16 of the PCB)
- Section 320.08056, F.S., (section 17 of the PCB)
- Section 322.025, F.S. (section 24 of the PCB)
- Section 322.0255, F.S. (section 25 of the PCB)

Issue #2

The PCB grants authority to the department to issue electronic titles in lieu of printing a paper title and allows the department to collect and use e-mail addresses of motor vehicle and vessel owners and registrants as a notification method in lieu of the United States Postal Service. The Legislature may want to consider expanding this authority to include the collection and use of e-mail addresses of driver license and identification card holders for notification purposes.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.